

RESOLUTION 2021-91

AUTHORIZING A UTILITY AGREEMENT WITH CLEVELAND ELECTRIC ILLUMINATING COMPANY TO EXTEND ELECTRIC SERVICE TO THE NEW WARRENSVILLE VAN AKEN SUBSTATION (PROJECT NO. 60B) IN AN AMOUNT NOT TO EXCEED \$850,520.03 (RTA DEVELOPMENT FUND, ENGINEERING & PROJECT DEVELOPMENT DEPARTMENT BUDGET)

WHEREAS, the Greater Cleveland Regional Transit Authority ("GCRTA") is constructing the Warrensville Van Aken Substation at a new location north and west of the former location at the end of the Blue Line in Shaker Heights, Ohio; and

WHEREAS, Cleveland Electric Illuminating Company ("CEI") is the electricity supplier at this location; and

WHEREAS, GCRTA has a need for electric service to be extended to the new location of the Warrensville Van Aken Substation; and

WHEREAS, GCRTA must obtain a utility agreement with CEI to perform this work, and CEI is willing to enter into a utility agreement for a total price not to exceed \$850,520.03 and to perform the construction activity to extend electric service to the new substation; and

WHEREAS, the Ohio Revised Code Section 306.43(H)(2) provides that competitive bidding is not required when the expenditure is for goods or services, or any combination thereof, and after reasonable inquiry the board or any officer or employee the board designates finds that only one source of supply is reasonably available; and

WHEREAS, CEI has been determined to be the only source for this work; and

WHEREAS, the General Manager, Chief Executive Officer deems the offer of CEI to be in the best interest of GCRTA and recommends acceptance thereof by the Board of Trustees.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the offer of Cleveland Electric Illuminating ("CEI") to construct the extension of electric service to the new Warrensville Van Aken Substation north and west of the terminus of the Blue Line in Shaker Heights, Ohio is hereby accepted.

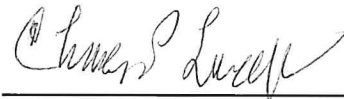
Section 2. That the General Manager, Chief Executive Officer of GCRTA be and is hereby authorized to enter into an agreement with CEI to construct the extension of electric service to the new Warrensville Van Aken Substation.

Section 3. That said contract should be payable from the RTA Development Fund, Engineering & Project Development Department budget, including but not limited to Capital Grant OH-2018-027, in an amount not to exceed \$850,520.03 (\$680,416.02 in federal funds which represents 80% of the total cost.)

Section 4. That said agreement shall be binding upon and an obligation of the Authority contingent upon appropriation of funds; compliance by the contractor to the Specifications and Addenda thereto, if any; the Affirmative Action Plan adopted by the Board of Trustees; bonding and insurance requirements, as applicable; and all applicable laws relating to contractual obligations of the Authority.

Section 5. That this resolution shall become effective immediately upon its adoption.

Adopted: September 28, 2021



President

Attest: *Rajan D. Santam*
Secretary-Treasurer



TITLE/DESCRIPTION:		Resolution No.:
CONTRACT:	UTILITY AGREEMENT TO EXTEND ELECTRIC SERVICE TO THE NEW WARRENSVILLE VAN AKEN SUBSTATION	2021-91
VENDOR:	CLEVELAND ELECTRIC ILLUMINATING COMPANY ("CEI")	Date: September 27, 2021
AMOUNT:	NTE \$850,520.03	Initiator: Engineering & Project Development
ACTION REQUEST:		
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____		

- 1.0 PURPOSE/SCOPE: This resolution seeks Board approval for a utility agreement with the Cleveland Electric Illuminating Company ("CEI") for the purpose of extending electric service to the new Warrensville Van Aken Substation located north and west of the terminus of the Blue Line in Shaker Heights, Ohio.
- 2.0 DESCRIPTION/JUSTIFICATION: The utility agreement will provide underground service from the manhole in Tuttle Road to the new location of the substation and will include duct banks, cabling, switch gears and all appurtenances to provide 33 KVA service.
- 3.0 PROCUREMENT BACKGROUND: Does not apply.
- 4.0 DBE/AFFIRMATIVE ACTION BACKGROUND: Does not apply.
- 5.0 POLICY IMPACT: Does not apply.
- 6.0 ECONOMIC IMPACT: This procurement will be funded through the RTA Development Fund, Engineering and Project Development Department budget, including but not limited to Capital Grant OH-2018-027 for a total amount of \$850,520.03 (\$680,416.02 in federal funds, which represents 80% of the cost).
- 7.0 ALTERNATIVES: The RTA can refrain from entering into the utility agreement with CEI. Refraining from entering into the agreement would result in not having electrical service extended to the new Warrensville Van Aken substation.
- 8.0 RECOMMENDATION: The utility agreement was discussed with the Board of Trustees at the June 15, 2021 Operational Planning & Infrastructure Committee meeting. It is recommended that the Board of Trustees approve the resolution authorizing the General Manager, Chief Executive Officer to execute the utility agreement with CEI.
- 9.0 ATTACHMENTS: Draft Agreement

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.



General Manager, Chief Executive Officer

CUSTOMER INFORMATION: (Please Print)

CUSTOMER NAME Greater Cleveland Transit Authority		ACCOUNT NO 1.10122E+11	
SERVICE ADDRESS 20110 Van Aken & Warrensville		SUITE NO	CUSTOMER PHONE
	STATE OH	ZIP CODE 44120	CUSTOMER PHONE (ALT) 216-781-4097
MAILING ADDRESS 1240 West 6th Street			
CITY Cleveland		STATE OH	ZIP CODE 44113
<p>I request to have The Illuminating Company perform the work described below at the above address. I agree that final scheduling of this work will not begin until payment of the agreed price below is received by The Illuminating Company. I understand that quoted prices remain in effect for only 90 days. In Jobbing and Contracting related work I understand that other providers are available to perform this work. The regulated services I currently receive from The Illuminating Company will not be impacted in any way regardless of the provider I select to do this work. This is not a invoice.</p>			
CUSTOMER NAME (Or DBA/INC) PRINT:		CUSTOMER NAME (Or DBA/INC) SIGN:	
IF COMMERCIAL OR INDUSTRIAL CUSTOMER - SIGNEE'S TITLE IN THE COMPANY			DATE

If there are any questions concerning this work please call the Illuminating Company at 1-800-589-3101.

FOR The Illuminating Company USE ONLY

CREWS WORK REQUEST NO	CODE	BILLABLE ID	WORK DESCRIPTION	PRICE
61408611		c	instatl manhole , conduit and cable from Tuttle Rd / busway intersection to proposed 33kv serice location	\$ 544,457.08
61408611		d	Provide and pad mounted survice equipment and the associted infrastructure	\$ 397,634.60
			Credit of Ohio Line Extention as prospsed as least cost option	\$ (117,581.10)
Total Federal Income Tax:				
Total State Tax:				
State:		Rate:		
County:		Total Sales Tax:		
Total to be Billed:				\$ 824,510.58

REMARKS
 THIS IS NOT AN INVOICE, PLEASE SIGN AND RETURN TO 6896 MILLER ROAD , BRECKSVILLE OHIO 44141

The Illuminating Company REPRESENTATIVE (Print) Daniel R Carman	The Illuminating Company REPRESENTATIVE (Signature)  9/17/21
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Do Not Send Payment. Invoice will be mailed to address indicated.

ILLUMINATING COMPANY (CEI)

9/17/21, 12:47 PM

Customer Work Approval and Payment Designation

Work Request Information

WR No: 61408611 **SAP Order No:** 17003806 **SAP Notification No:** 759356080 **Entry Date:** 06/24/2021
WR Name: GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY,GCRTA
Street No: 20110 **Street No Frac:** **Dir:** **Unit No:** _____
Street Address: VAN AKEN BLVD
City: SHAKER HEIGHTS **State:** OH **Zip:** 44120 - ____
WR Desc: / Remarks: PER EMAIL FROM DYLAN LONG - NEED DCOMN - with the same attributes as Order 15283512 (Notif 742904684, WR 58581230)? The original WR was STOPPED and should not have been....MTH/TEAM1/ Init Stage Const: Site Staked/ Reason Contact Req: DESIGN

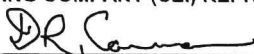
I request to have ILLUMINATING COMPANY (CEI) perform the work described below at the above address. I agree that final scheduling of this work will not begin until payment of the agreed price below is received by ILLUMINATING COMPANY (CEI). I understand that quoted prices remain in effect for only 90 days. In Jobbing and Contracting related work I understand that other providers are available to perform this work. The regulated services I currently receive from ILLUMINATING COMPANY (CEI) will not be impacted in any way regardless of the provider I select to do this work. This is not an invoice.

Bill To Information

Billable Id: A **Billing Entry Date:** 08/09/2021
Bill To Name: GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY,GCRTA
Attention: _____
Street No: 20110 **Street No Frac:** **Dir:** **Unit No:** _____
Street Name: VAN AKEN BLVD
City: SHAKER HEIGHTS **State:** OH **Zip:** 44120 - ____
Purchase Order No: _____
Sales Rep: JRR9 COX,JACARA R **Phone:** (440) 546-8812

Billable Charges

Description: _____			
Detail:		Direct Cost	Overheads
	Labor	\$ 25,546.05	\$ 8,177.29
	Material	\$ 17,724.44	\$ 1,868.16
	Equipment	\$ 4,106.87	\$ 432.86
			Regular Cost Estimate: \$ 57,855.67
			Excluded Operation & Maintenance Cost: \$ -20.27
			Adjusted Cost Estimate: \$ 57,875.94
			Company Obligation for Construction: \$ (34,725.56)
			Line Extension: \$ 23,150.38
			Premium: \$ 0.00
			Sub Total: \$ 23,150.38
			CIAC Tax: \$ 2,859.07
			Finance Interest: \$ 0.00 Months:
			Est. Sales Tax: \$ 0.00 County:
			Amount to be Invoiced: \$ 26,009.45

CUSTOMER NAME (Or DBA/INC)	CUSTOMER SIGNATURE
SIGNEE'S TITLE IN THE COMPANY	DATE
ILLUMINATING COMPANY (CEI) REPRESENTATIVE (Print) <div style="text-align: center;">Daniel R Carman</div>	ILLUMINATING COMPANY (CEI) REPRESENTATIVE (Signature) <div style="text-align: center;">  9/17/21 </div>

**CUSTOMER WORK APPROVAL AND PAYMENT
 DESIGNATION - Ohio NON-Line Extension
 FORM X-2476.1 (REV. 08-10) PAGE 2 OF 2**

TERMS AND CONDITIONS

Illuminating Company Company ("IC") and Owner agree the terms and conditions herein shall constitute the complete and final agreement between the parties, superseding all other agreements, written or oral. These terms and conditions may not be modified hereafter except by written agreement of IC.

INITIAL	DATE
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BILLING AND PAYMENT

In the event that IC performs the agreed to work prior to payment, IC will invoice Owner for the work performed pursuant to this Agreement. Payment shall be made to IC upon Owner's receipt of invoice. All invoices past due thirty (30) days or more shall be charged the lesser of one and one-half percent (1 ½%) per month or the maximum rate of interest allowable by law. Owner agrees to reimburse IC in full for all costs of collection, including attorney fees, incurred or paid by IC in connection with collecting, or attempting to collect, any amounts due under this Agreement.

WARRANTY

For a period of one hundred eighty (180) days from the in service date of the equipment and materials, IC agrees to remedy by repair or replacement at its sole option, the failure of equipment and materials which is caused by defects in workmanship of IC. EXCEPT AS STATED ABOVE, THE ILLUMINATING COMPANY EXPRESSLY EXCLUDES, AND OWNER HEREBY WAIVES, ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING FROM ANY COURSE OF DEALING OR USAGE OF TRADE.

INDEMNIFICATION

Owner agrees for itself, its successors and assigns, to save IC, its successors and assigns, harmless from all claims, demands, damages, losses, judgments, actions or causes of actions, costs or expenses, including litigation expenses and legal fees, in connection therewith or related thereto, including lack of authority to enter into this Agreement, asserted by or for any person or persons for personal injuries, death, or property damage caused by, arising out of, or in any way related to the work performed by IC under this Agreement, unless initiated or proximately caused by the sole negligence of IC. Notwithstanding the foregoing, IC shall have no responsibility to the Owner or third parties if the work scope as defined by Owner violates the rights of or causes damage to any third party or governmental authority.

LIMITATION OF LIABILITY

Neither IC, its affiliated companies, its subcontractors, nor its employees shall be liable for loss of anticipated profits, loss by reason of plant or other facility shutdown, non-operation or increased expense of operation, service interruption, claims of Owner's customers, subcontractors, vendors or suppliers, cost of money, loss of use of capital or revenue arising out of IC's work or out of or in connection with Owner's use, or inability to use, the facilities, or for any special, incidental or consequential damages of any nature, arising at any time or from any cause whatsoever.

FORCE MAJEURE

Neither party shall be liable to the other for any expenses, loss or damage resulting from delays or prevention of performance arising from causes beyond its reasonable control caused by fire, flood, accident, strike, civil commotion, governmental or military authority, insurrection, riots, embargoes, unavoidable delays in transportation, acts of God, or public enemy.

ASSIGNMENT

This Agreement shall be binding upon and insure to the benefit of the parties hereof, their successors and assigns. Owner, however, shall not assign to any other person or association not affiliated with Owner any rights or privileges hereby granted, or authorize any person or association not affiliated with Owner the exercise of any rights or privileges herein provided for, without the written consent of IC.

ARBITRATION

Any question in dispute between the parties arising out of the Agreement (except any claim for damages because of bodily injuries, including death at any time resulting there from, except for any claim for damages because of injuries to or destruction of property and, except for major breach or repudiation with respect to this Agreement) which is not amicably settled shall be submitted to final and binding arbitration. Such arbitration shall be conducted in Akron, Ohio, before an arbitrator mutually acceptable to the parties; provided, however, that should the parties be unable to agree, the arbitrator shall be selected by the presiding Judge of the Court of Common Pleas of Summit County, Ohio. The request for arbitration shall be in writing setting forth the claim or claims to be arbitrated and the remedy sought. It shall be delivered to the other party within 90 days of the occurrence giving rise to the dispute. Any failure to request arbitration within such 90-day period shall be deemed a waiver of the right to arbitrate the claim upon which the dispute is based.

SUBCONTRACTING

NON-WAIVER

IC and Owner will comply with all applicable Federal, State, and Local statutes, ordinances, rules, and regulations. Other providers are available to perform this work. The services you receive from THE ILLUMINATING COMPANY will not be impacted in any way regardless of the provider you select to do this work.

NON-WAIVER

The failure of either party to insist or enforce in any instance strict performance of any of the terms hereof or to exercise any of its rights herein shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms on any future occasion.

APPLICABLE LAW

This Agreement shall be governed in all respects by the laws of the State of Ohio and only the Courts of Ohio, or Federal Courts in Ohio shall have jurisdiction.

APPROVED AS TO LEGAL FORM:

GREATER CLEVELAND REGIONAL
 TRANSIT AUTHORITY

By _____
 Sheryl King Benford, General Counsel
 Deputy General Manager for Legal Affairs

 India L. Birdsong
 General Manager, Chief Executive Officer